

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

Federal-State Joint Board on )  
Universal Service ) CC Docket No. 96-45

OPPOSITION OF U S WEST COMMUNICATIONS, INC.

U S WEST Communications, Inc. ("U S WEST") hereby opposes, and provides comments to, AT&T Corp.'s ("AT&T") Petition for Reconsideration ("PFR") of the Federal Communications Commission's ("Commission") Memorandum Opinion and Order and Seventeenth Order on Reconsideration ("Seventeenth Order on Reconsideration").<sup>1</sup> In its PFR, AT&T argues that the Commission should reverse its equitable and efficient decision to use prior-year revenues to determine federal universal service fund ("USF") contributions. Unfortunately for AT&T, its PFR contains no new facts and simply rehashes its haggard, old argument that the Commission properly rejected numerous times after due consideration. Moreover, AT&T's proposal suffers from the same flaws identified in the Seventeenth Order on Reconsideration. In such circumstances, reconsideration is inappropriate.

<sup>1</sup> In the Matters of: Federal-State Joint Board on Universal Service; Petitions for Waiver or Reconsideration of Sections 54.706, 54.709, and/or 54.711 of the Commission's Rules filed by: Affinity Corporation, Hotel Communications, Inc., LDC Telecommunications, Inc., MobileTel, Inc., National Telephone & Communications, Inc., Network Operator Services, Inc., Operator Communications, Inc., U.S. Network, Inc., CC Docket No. 96-45, Memorandum Opinion and Order and Seventeenth Order on Reconsideration, FCC 99-280, rel. Oct. 13, 1999.

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I. AT&T'S PROPOSAL HAS BEEN REJECTED BY THE COMMISSION NO LESS THAN THREE TIMES

AT&T's suggestion to use current-year revenue for USF contributions was rejected three times by the Commission. First, as noted by AT&T in its PFR, AT&T suggested a methodology based on current-year revenues that was rejected in the First Report and Order on Universal Service almost four years ago.<sup>2</sup> Second, one year later, the Commission again opted for prior-year revenues in the Second Order on Reconsideration on universal service and the attached Worksheet.<sup>3</sup> Finally, in the Order now under attack, current-year revenues were rejected.<sup>4</sup> Although one must give AT&T high marks for persistence, its current PFR is frankly an abuse of the process and should be rejected as such.

II. THE COMMISSION HAS ALREADY SQUARELY AND PROPERLY REJECTED THE RATIONALE OF AT&T'S PFR

The core of AT&T's PFR is its contention that the current methodology is "profoundly anticompetitive and does not comply with the statutory directive [that all interstate providers make equitable and nondiscriminatory contributions] because it means that carriers with declining interstate revenues will be systematically disadvantaged as compared to carriers with increasing interstate revenues."<sup>5</sup> This was exactly the rationale rejected in the Seventeenth Order on Reconsideration: "The fact that some carriers may have difficulty recovering their

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<sup>2</sup> See PFR at 4-5.

<sup>3</sup> See Seventeenth Order on Reconsideration ¶ 7.

<sup>4</sup> See id. ¶¶ 21-27.

<sup>5</sup> PFR at 2.

contributions from a declining customer base is the product of a competitive marketplace, not an inequitable, discriminatory, or competitively-biased Commission rule.”<sup>6</sup>

Indeed, AT&T itself made this very same point in the previous proceedings, as evidenced by the following sentence from the Seventeenth Order on Reconsideration: “We agree with AT&T and BellSouth that annual revenue variations are an inherent part of the competitive environment in the telecommunications industry.”<sup>7</sup>

In addition, as the Commission noted previously, the effects of the current system are predictable and can be dealt with by careful planning: “now that carriers are familiar with the contribution process, they have the ability to ameliorate the effects of declining revenues and/or subscribers by reserving a portion of their current revenues to meet the contribution obligations that arise from those current revenues in the following year.”<sup>8</sup> Notably, AT&T did not even attempt to rebut this reasoning in its PFR.

### III. AT&T'S PROPOSAL STILL SUFFERS FROM THE OTHER FLAWS IDENTIFIED IN THE SEVENTEENTH ORDER ON RECONSIDERATION

In the Seventeenth Order on Reconsideration, the Commission rejected current-year proposals for the following key reasons:

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<sup>6</sup> Seventeenth Order on Reconsideration ¶ 21.

<sup>7</sup> Id. ¶ 30.

<sup>8</sup> Id.

- reliance on forecasts results in overbilling and underbilling, which “is contrary to Congress’s directive that the universal service support mechanisms be specific, predictable, and sufficient;”<sup>9</sup> and
- the “reconciliation procedure” necessitated by the use of forecasts unduly “increase[s] the administrative burden on both carriers and USAC.”<sup>10</sup>

While AT&T does not propose relying on a forecast, they propose a similar process that relies on an estimate and subsequent true-up.<sup>11</sup> Therefore, these two faults still apply.

#### IV. CONCLUSION

For the reasons described above, AT&T’s PFR should be rejected.

Respectfully submitted,

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<sup>9</sup> Id. ¶ 23.

<sup>10</sup> Id. ¶ 27.

<sup>11</sup> AT&T’s claim that its current proposal does not rely on forecasts is wrong. See PFR at 6. In actuality, it does. AT&T is simply engaging in semantic games. Because AT&T’s proposal would use historic revenues as a predictor of future revenues, AT&T claims its proposal is not based on forecasts. The reality is that AT&T is simply using historic data as a forecast to be later trued-up to fix the overbilling and underbilling that will occur and that formed a basis for the Commission’s earlier rejection of this idea. AT&T admitted as much: “Further, to guard against a shortfall, AT&T’s proposal includes a quarterly true-up mechanism which would allow USAC to adjust the prospective assessment rate.” Id. (emphasis added).

## CERTIFICATE OF SERVICE

I, Kristi Jones, do hereby certify that I have caused 1) the foregoing **OPPOSITION OF U S WEST COMMUNICATIONS, INC.** to be filed electronically with the FCC by using its Electronic Comment Filing System, 2) a courtesy copy of the **OPPOSITION** to be served, via hand delivery, upon the persons/entity listed on the attached service list (marked with an asterisk), and 3) a copy of the **OPPOSITION** to be served, via first class United States mail, postage prepaid, upon all other persons listed on the attached service list.

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